

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4659 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-  
and  
Hon'ble MR.JUSTICE H.K.RATHOD sd/-

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO  
No
  2. To be referred to the Reporter or not? No :
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO  
No
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO  
No
  5. Whether it is to be circulated to the Civil Judge? No :

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BHAVESH NATWARLAL PANDYA

Versus

GEETABEN SAMJI HETHWADIA  
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Appearance:

MR RAJNI H MEHTA for Petitioners  
MR SURESH M SHAH for Respondent No. 1  
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CORAM : MR.JUSTICE D.C.SRIVASTAVA  
and  
MR.JUSTICE H.K.RATHOD

Date of decision: 22/06/2000

ORAL JUDGEMENT

1. This is an Appeal against the interim Award dated 18.9.1997 under Section 163-A of the Motor Vehicles Act rendered by the Motor Accident Claims Tribunal, Bhuj (Kutch) awarding compensation of Rs.4,41,500/- together with interest at the rate of 15 % p.a. No cost has been awarded.

2. Shri R.H.Mehta, learned Advocate for the appellant and Shri M.S. Shah for the respondents have been heard. The impugned Award has been examined.

3. It appears from the impugned Award that the age of the deceased was found to be 21 years. This finding is based on prima facie evidence available before the Tribunal. The deceased was agriculturist. Monthly income of the deceased was assessed at Rs.3000/-. In this way annual income of the deceased was worked out at Rs.36,000/- and according to the Second Schedule the total amount of compensation was worked out at Rs.6,48,000/-. 1/3 of this amount was deducted towards personal expenses of the deceased, namely, Rs.2,16,000/- were so deducted, leaving a sum of Rs.4,32,000/- which is the net compensation payable to the claimant. Over and above Rs.2000/- were awarded for funeral expenses, Rs.2500/- were awarded for loss of estate and Rs.5000/- were awarded for consortium. The above calculation is as per Second Schedule and we do not find any error. Consequently there is no ground for interference in this Appeal. The Appeal, in these circumstances, is bound to fail. The Appeal is hereby dismissed with no order as to costs.

4. The appellants are directed to deposit the amount under Award together with interest, with the Tribunal within a period of eight weeks from today. Upon the amount being so deposited 30 % shall be paid to the claimant and the remaining amount shall be invested in Fixed Deposit with some Nationalised Bank for a period of six years. Interest accruing on the Fixed Deposit shall be paid to the claimant respondents. The Fixed Deposit Receipt shall be kept in a safe custody by the Tribunal till disposal of the petition under Section 166 of the Motor Vehicles Act.

5. The respondents shall file Undertaking before the Tribunal that they will proceed with their pending application under Section 166 of the Motor Vehicles Act and shall get it decided on merit and shall not get it dismissed in default.

sd/-

( D. C. Srivastava, J. )

Date : June 22, 2000 sd/-

( H. K. Rathod, J. )

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